

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff

vs.

3. DUMITRU NICULESCU,

Defendant

2:06-CR-085-JCM-GWF

**ORDER DENYING DEFENDANT
NICULESCU'S MOTION IN LIMINE
WITHOUT PREJUDICE**


THIS MATTER comes before the Court on defendant DUMITRU NICULESCU's Motion in Limine Regarding Evidence of Prior Bad Acts ("Motion in Limine") [**Docket No. 289**].

Having reviewed the defendant's motions and supporting memoranda, the government's response, and having heard the arguments of counsel at the hearing of July 10, 2007, the Court tentatively finds, based upon the government's proffer, that the evidence that the defendant moves to exclude is inextricably intertwined with charged offenses and part of the background and development of the conspiracy described in the indictment. This evidence would therefore fall outside of the ambit of Fed.R.Evid. 404(b). *See e.g., United States v. Curtin*, 443 F.3d 1084 (9th Cir. 2006); *United States v. Montgomery*, 384 F.3d 1050, 1061 (9th Cir. 2004); *United States v. Lillard*, 354 F.3d 850, 854 (9th Cir. 2003); *United States v. Jones*, 982 F.2d 380, 382-83 (9th Cir.1992); *United States v. Vizcarra-Martinez*, 66 F.3d 1006, 1012-1013 (9th Cir.1995). Based upon this preliminary finding, it is at this time unnecessary to examine the government's alternative argument that the proffered evidence would also be under Rule 404(b).

1 The Court therefore ORDERS:

2 Defendant DUMITRU NICULESCU's Motion in Limine Regarding Evidence of Prior
3 Bad Acts ("Motion in Limine") [**Docket No. 289**] is denied without prejudice and with
4 the proviso that defendant may renew his objections based upon the evidence presented
5 at trial.

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7 IT IS SO ORDERED this 1st day of August, 2007.

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10 JAMES C. MAHAN
11 United States District Judge
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